

So Ordered.
Dated: June 24th, 2015



Frank L. Kurtz
Frank L. Kurtz
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

In re:) NO. 13-04206-FLK11
BEHLING DAIRY MANAGEMENT, INC.,) FINDINGS OF FACT AND
Debtor.) CONCLUSIONS OF LAW

THIS MATTER having come on for hearing before the Honorable Frank L. Kurtz, United States Bankruptcy Judge for the Eastern District of Washington by telephone conference on June 1, 2015, the Debtors appearing by and through their attorney of record JAMES P. HURLEY of Hurley & Lara, the U.S. Trustee represented by GARY DYER, the Unsecured Creditors Committee being represented by PAUL LARSON of Larson, Berg & Perkins, Columbia State Bank being represented by DAVID CRISWELL of Ball Janik, and Zions Agricultural Finance/U.S. Bank being represented by BRIAN WALKER of Ogden, Murphy, Wallace, and the Court having considered the Debtor's First Amended Disclosure Statement and First Amended Plan of Reorganization filed in this matter and the Stipulations between Columbia State Bank and the Debtor, Zions Agricultural Finance/U.S. Bank and the Debtor, and the Unsecured Creditors Committee and the Debtor, and the argument of counsel and the testimony of Jeffrey Behling, the Court now makes the following:

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

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FINDINGS OF FACT

1
2 1. Debtor's First Amended Plan of Reorganization was filed January 14, 2015 and was
3 submitted to creditors and other parties in interest; and
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5 2. That subject to the terms of the Stipulations between Columbia State Bank and the
6 Debtor, Zions Agricultural Finance/U.S. Bank and the Debtor, and the Unsecured Creditors Committee
7 and the Debtor, the Plan has been accepted in writing by the creditors and equity security holders
8 whose acceptance is required by law; and
9

10 3. The provisions of Chapter 11 of the United States Code have been complied with and
11 the Plan has been proposed in good faith and not by any means forbidden by law; and
12

13 4. That (a) each holder of a claim or interest has accepted the Plan or will receive or retain
14 under the Plan property of a value, as of the effective date of the Plan, that is not less than the amount
15 that such holder would receive or retain if the Debtor was liquidated under Chapter 7 of the Code on
16 such date, or (b) the Plan does not discriminate unfairly, and is fair and equitable with respect to each
17 class of claims or interests that is impaired under, and has not accepted the Plan; and
18

19 5. All payments made or promised by the Debtor, or by a person issuing securities or
20 acquiring property under the Plan, or by any other person for services or for costs and expenses in, or
21 in connection with, the Plan and incident to the case, have been fully disclosed to the Court and are
22 reasonable and are hereby approved or, if to be fixed after confirmation of the Plan, will be subject to
23 approval of the Court; and
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25 6. Confirmation of the Plan is not likely to be followed by liquidation or the need for further
26 financial reorganization of the Debtor; and
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28 7. That pursuant to the Plan, the following acts or events constitute substantial
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1 consummation of the Plan: Seventy-five (75) days following confirmation, provided the Debtor has
2 made all installments provided by this Plan to be paid within that time; and

3
4 8. Creditors were given Notice of Confirmation and no objections thereto were made, or if
5 made, have been resolved or overruled and it is proper that Debtor's Plan be confirmed subject to the
6 three Stipulations set forth above.

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9 Based upon the foregoing Findings of Fact, the Court now makes the following:

10 **CONCLUSIONS OF LAW**

11 1. Subject to the terms of the Confirmation Order and the Stipulations enumerated in the
12 Findings of Fact, the Plan has been accepted in writing by the creditors and equity security holders
13 whose acceptance is required by law;

14
15 2. The provisions of Chapter 11 have been complied with; the Plan has been proposed in
16 good faith and not by any means forbidden by law; and

17
18 3. (i) Each holder of a claim or interest has accepted the Plan or will receive or retain
19 under the Plan property of a value as of the effective date of the Plan that is not less than the amount
20 that such holder would receive or retain if Debtor were liquidated under Chapter 7 of the Code on such
21 date; or

22
23 (ii) The Plan does not discriminate unfairly and is fair and equitable with respect to
24 each class of claims or interest that are impaired under the Plan and has not accepted the Plan; and

25 4. All payments made or promised by the Debtor or by the person issuing securities or
26 acquiring property under the Plan or by any other person for services or for costs and expenses in, or in
27 connection with, the Plan and incident to the case, have been fully disclosed to the Court and are
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1 reasonable or, if to be fixed after Confirmation of the Plan, will be subject to approval of the Court; and
2
3 5. The identity, qualifications and affiliations of the persons who are to be managers of the
4 Debtor after confirmation of the Plan have been fully disclosed, and the appointment of such persons to
5 such offices or the continued appointment of such persons to such offices, or their continuance therein,
6 is equitable and consistent with the interest of the creditors and equity security holders and with public
7 policy; and
8

9 6. The identity of any insider that will be employed or retained by the Debtor and their
10 compensation has been fully disclosed; and
11

12 7. Confirmation of the Plan is not likely to be followed by liquidation or the need for further
13 financial reorganization of the Debtor; and
14

15 8. Substantial confirmation shall not occur before the seventy-fifth (75th) day after the
16 effective date; and
17

18 Closing of the case: Sixty (60) days following the filing of the final account, the final
19 Decree will be entered and the case shall be closed, unless a Motion is filed requesting that the final
20 Decree not be so entered; and
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22 9. Debtor's Plan, as amended by the Stipulations between Columbia State Bank and the
23 Debtor, Zions Agricultural Finance/U.S. Bank and the Debtor, and the Unsecured Creditors Committee
24 and the Debtor, shall be confirmed; and
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26 10. If a Final Account has not been filed within one hundred and eighty (180) days following
27 the Confirmation of the Plan, a Final Decree may be entered and the case closed unless a party in
28 interest has filed a written objection.
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/// END OF ORDER ///

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1 Presented by:

2
3 s/ James P. Hurley

4 JAMES P. HURLEY WSBA #6615
5 Attorney for Debtor

6 APPROVED:

7
8 GARY DYER

9 Attorney for the U.S. Trustee

10
11 PAUL M. LARSON WSBA #06010

12 LARSON BERG & PERKINS PLLC
13 Attorneys for Unsecured Creditors Committee

14 s/ David W. Criswell

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17 Attorneys for Columbia State Bank

18 s/ Brian Walker

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20 OGDEN MURPHY WALLACE, PLLC

21 Attorneys for Zions Agricultural Finance/U.S. Bank

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